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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/389,819	09/03/1999	GREG B. GARRISON	192304-1035	5925

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EXAMINER

KLIMACH, PAULA W

ART UNIT	PAPER NUMBER
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2131

DATE MAILED: 07/16/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

2

Office Action Summary

Application No.

09/389,819

Applicant(s)

GARRISON, GREG B.

Examiner

Paula W Klimach

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 15
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. **Claim 1** is objected to because of the following informalities:

Claim 1 reads "...a first computer configured transmit..." on line 2 it should read "...a first computer configured to transmit...". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-4, 11, 12, and 14-19** are rejected under 35 U.S.C. 102(b) as being anticipated by Kaplan.
3. *In reference to claim 1, 11, and 12*, Kaplan discloses a system for securely transmitting data messages, the publisher/ Content creator of page 6 paragraph 1, where a first computer is configured to transmit a data message, the data message having a header and a data portion, and the first computer is configured to encrypt the data portion via a first encryption technique, and to encrypt the header via a second encryption technique, page 3 paragraph 3, the first computer is further configured to include information associated with the first encryption technique in the header, page 5 paragraph 5; and a second computer configured to receive the first data message and to decrypt the header, the second computer, content user/consumer, is further configured to

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decrypt the data portion based on the information included in the header, page 7 paragraph 1 in combination with paragraph 3.

4. *In reference to claim 2*, the information associated with the first encryption technique identifies the second encryption technique, page 5 paragraph 5.

5. *In reference to claims 3 and 14*, the second encryption technique includes RSA encryption, page 3 paragraph 6.

6. *In reference to claims 4 and 15*, the first encryption technique includes DES encryption, page 3 paragraph 3.

7. *In reference to claim 16*, Kaplan encrypts the data portion of the first data message with an encryption key and includes the encryption key in said header of said first data message, page paragraphs 3 and 4.

8. *In reference to claim 17*, the encryption key is selected randomly, page 3 paragraph 3.

9. *In reference to claim 18*, Kaplan discloses receiving the first data message transmitted in the transmitting step; decrypting the header of the first data message; and decrypting the data portion of the first data message based on said information included in said header of the first data message, page 7 paragraph 3.

10. *In reference to claim 19*, identify the first encryption technique via information included in the header of the first data message, page 7 paragraph 3.

Claim Rejections - 35 USC § 103

11. **Claims 5, 7, 8, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan as applied to claim 1 above, and further in view of Xiao (6,571,337 B1).

12. *In reference to claims 5 and 20*, Kaplan does not expressly disclose the first computer transmits a public key to said second computer.

Xiao, discloses the first computer transmits a public key to said second computer, claim 6 lines 13-17.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to transmit the key to decrypt the header information of Kaplan with the key of Xiao. One of ordinary skill in the art would have been motivated to do this because the key would be provided after the customer satisfies the terms and conditions for accessing the data entity, Xiao claim 6 lines 9-12.

13. *In reference to claim 7*, Kaplan discloses the structure that is contains the first encryption technique identifies an encryption key used by said first computer to encrypt said data portion, page 3 paragraph 4-7.

14. *In reference to claim 8*, Xiao discloses a first computer randomly selects said encryption key, column 4 lines 45-47.

15. **Claims 6 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan and Xiao as applied to claim 5 above, and further in view of Schneier.

Kaplan and Xiao do not expressly disclose first computer is configured to encrypt said public key before transmitting said public key to said second computer.

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Schneier discloses an encrypted key exchange, where part of the process is to encrypt the key that is sent, page 518 paragraph 4.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to encrypt the key sent to the consumer in Kaplan using the method of Schneier. One of ordinary skill in the art would have been motivated to do this because it would prevent a third party guessing the key, page 519 paragraph 1.

16. **Claims 9, 10, 13, and 22-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan as applied to claim 1 above, and further in view of Leppek (6,233,338 B1).

17. *In reference to claims 9 and 22*, Kaplan does not disclose transmitting a list of encryption techniques to said first computer and said first computer is configured to select said first encryption technique from said list.

Leppek discloses transmitting a plurality of different operators, claim 1 lines 9-13. This is the equivalent to transmitting the techniques because the operator dictates how the data will be operated on and therefore the technique of encryption.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to transmit the operators from the publisher of Kaplan to the content user of Kaplan, as disclosed in Leppek. One of ordinary skill in the art would have been motivated to do this because a scrambled data stream with no readily discernible encryption footprint will result, column 2 lines 25-40.

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18. *In reference to claim 10, 13, 23, and 24*, the of operators disclosed by Leppek, may vary as required by the user, column 2 lines 51-57, and thus are randomly selected, resulting in random encryption algorithms being created each time.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kaplan	IBM Cryptolopes TM , SuperDistribution and Digital Rights Management
Leppek	6,233,338 B1
Xiao	6,571,337 B1
Schneier	Applied Cryptography

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula W Klimach whose telephone number is (703) 305-8421. The examiner can normally be reached on Mon to Fri 7:15 a.m to 3:45 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (703) 305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-8421 for regular communications and (703) 305-8421 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4832.

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PWK
July 9, 2003


AYAZ SHEIKH
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